

The Nation.

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The Week.

THE President soon after the election sent a committee down to Louisiana to watch the count. It was composed of Republican partisans exclusively—viz., Senator Sherman; Mr. E. W. Stoughton, who wrote the elaborate legal defence of the last military interference with the Louisiana legislature in 1875; J. H. Van Alen, who is almost unknown; Eugene Hale, who was Blaine's managing man at the Cincinnati Convention; J. A. Garfield; Cortland Parker of New Jersey; W. D. Kelley, the wild Pennsylvanian; and Sidney Clark and J. C. Wilson of Kansas. Without casting an imputation on the honesty of these gentlemen, it is easy to see why their findings should not satisfy the public; and yet the President sent their report to Congress as a public paper which the Democrats should accept as authoritative. After complimenting the Returning Board for the courtesy with which it treated them, they explain that the Board was created in 1870, owing to the outrages (which they describe) perpetrated on colored voters previous to that year, and which made fair elections impossible. They declare, however, that the powers conferred on the Board are "inadequate," because, while it can reject votes on account of intimidation, it cannot add the votes which it thinks would have been cast but for intimidation. For instance, in a parish where there is a large colored vote registered, and it is not cast at the election, they think the Board ought to be able to put it in on *à priori* grounds, if there is evidence of intimidation. They then give a summary of the powers of the Board under the statute, with which our readers are tolerably familiar, and show that the Supreme Court of the State has decided that there is no appeal from its rulings, and speak of it as a somewhat august body. They then give a sketch of the members of the Board. Wells, the chairman of the Board, is of an "old and highly-respectable family," "liberally educated," "devoted to the Union cause," and unanimously elected governor under Johnson's reconstruction scheme; "experience great and varied"; "capacity cannot be questioned." Anderson is also eulogized in the same fashion. Casanave (colored) is a man of "intelligence," "excellent character" and "business habits"; and the other colored member, who keeps a liquor-store, is simply "intelligent and active." It will be observed that Wells's career is not traced down further than his election to the governorship under the Johnson plan of reconstruction, and that there is not the slightest allusion to the fact that the official conduct of these very men had been investigated by Congress, and that they had been found guilty of illegality and usurpation for party purposes.

They describe the Democratic plan for carrying the State to consist of a circular recommending a hopeful view of the result of the election in conversation; processions on horseback, to give the negroes a high idea of the conservative strength; and "intimidation" in parishes in which the negro vote was heavy—five in all. They then describe the intimidation as having consisted of murdering, maiming, and whipping by masked bands, and say this was proved, but do not say how. They reiterate the power of the Board to reject the returns in parishes which were the scenes of this intimidation, if satisfied with the testimony; affirm once more that the Board was "the sole and final judge" of this testimony, and, "if in reaching a conclusion it exercised good faith and was guided by an honest desire to do justice, its determination should be respected, even if, upon like proof, a different conclusion might have been reached by other tribunals or persons." This is a good saving clause.

It is now our painful duty to make some additions to the history of the Board which the Committee has apparently overlooked. It

only traces Wells's history down to his election as Governor; as to his subsequent career, we shall cite General Sheridan, who is no lawyer and a poor politician, but is an officer and a gentleman, and knows a rogue when he sees him. He was sent down to right Louisiana affairs in 1867, and found Wells acting as Governor, and removed him summarily in June of that year; and in a report to Secretary Stanton, dated June 3, 1867, gave as his reasons that, \$4,000,000 having been voted by the Legislature for the repair of the levees—

"after its [the Legislature] adjournment the Governor of the State appointed a Board of his own, in violation of this act, and made the acknowledgment to me in person that his object was to disburse the money in the interest of his own party, by securing for it the vote of the employees. The Board continued in office, but the Legislature refused to recognize the Governor's Board, and each side appealed to me to sustain it, which I would not do. The question must then have gone to the courts, which, according to the Governor's judgment, who was appealing to me to be sustained, would require one year for decision. Meantime the State was overflowed. The Levee Boards were tied up by political chicanery, and nothing was done to relieve the poor people, now fed by the Government and charitable associations of the North.

"I say now, unequivocally, that Governor Wells is a political trickster and a dishonored man.

"I have watched him since, and his conduct has been as sinuous as the mark left in the dust by the movement of a snake.

"I say again that he is dishonest, and dishonesty is more than must be expected of me."

Subsequently, writing to General Grant, General Sheridan said of the same eminent man:

"He has embarrassed me very much, since I came into command, by his subterfuge and political chicanery. This necessary act will be approved by every class and shade of political opinion here. He has not one friend who is an honest man."

Now as regards the history of this Board as a judicial tribunal, of which one would suppose this Republican Committee had never heard. Our readers already know that it has flagrantly and impudently disobeyed the law in refusing to fill a vacancy with a Democratic member, and to this, too, the report makes no allusion. A Congressional Committee of seven was sent down to investigate the doings of this very Board after the election of 1874, and the majority, Messrs. Foster of Ohio, Phelps and Potter of New York, and Marshall of Illinois, found that the Board had taken the majority of votes away from one side and given it to the other by "unjust, arbitrary, and illegal action"; the minority, consisting of Messrs. G. F. Hoar of Massachusetts, William A. Wheeler of New York, and W. P. Frye of Maine, found that it had done as described with the votes, but in consideration of its motives, which they thought were good, simply expressed "emphatic disapprobation of its proceedings" and "dissent from the view it took of its own powers and duties," and pronounced its conduct "illegal" in "trying to cure one wrong by another." To make a report on the recent action of the Returning Board, in which all knowledge of these facts in its history is concealed, and claim confidence for it as for a judicial body whose integrity had never been impeached, it is impossible not to pronounce disingenuous.

The Democratic Committee sent down to New Orleans have also made their report. It, too, is a partisan body, but not so notoriously partisan as the other. Its members are Messrs. Lyman Trumbull, J. M. Palmer, William Bigler, George B. Smith, George W. Julian, and P. H. Watson. They offered to co-operate with the Republican Committee when they reached New Orleans, but the latter declined in the character of "simple strangers," in the amusing and tricky manner which has already been described in our columns. The report, after calling attention to the fact that the Board is the same old Board whose work was denounced by the Congressional Committee in 1875, denies that it has under the law

of 1872 (amending the law of 1870) any authority to count the vote for elections; attributes this power to the Governor and Secretary of State, the Attorney-General, and a judge, whose functions would be purely ministerial; denies the constitutionality of the Board, on the ground that it exercises judicial functions and has not filled the vacancy as required by law, and is composed of members taken from one party only, as is the entire clerical force employed by it; shows that under the law charges of intimidation must accompany the returns, and cannot be added afterwards; maintains that the face of the returns showed a majority of 8,957 for Tilden; describes the processes by which this was converted into a majority for Hayes, and draws attention to the secrecy of the final count and the absence of any details in the announcement of the decision. It admits the existence of great lawlessness in the State, and ascribes it to bad government, and gives the reasons which make it probable that many negroes vote the Republican ticket, and describes some of the principal forms of Republican rascality. The report seems not to have evaded any important point, in this respect having a decided moral superiority, whatever may be thought of the argumentation, over that of the Innocent Strangers.

The situation in South Carolina at the present writing is this: The Wallace Assembly contains a legal quorum, or sixty-three members returned by the Board of Canvassers—that is, by the body whose decisions the President is supposed to be supporting—and it has over and above this seven or eight members who hold certificates from the Supreme Court only. The Mackey or Radical Assembly has never had a quorum at all, or more than fifty-nine members, and, therefore, has never been competent to transact any business or do anything but adjourn from day to day. On the sixth the Supreme Court of the State delivered a judgment recognizing Wallace as the legal Speaker, and his sixty-three followers as the legal House, and declaring Mackey and his followers mere interlopers. On the seventh Mr. Chamberlain was, however, sworn in as Governor before the Mackey House and the Senate by a judge of probate, the Chief-justice refusing to act. He read a rather florid address, partly in vindication of himself and partly in denunciation of the enemy, hinting in one place that he was in danger of assassination, which called forth an indignant and vituperative denial from Wade Hampton the next day. The Wallace House had understood from Washington that on presenting themselves at the hall in the capitol with sixty-three members returned by the Board of Canvassers, and with the recognition of the Supreme Court, they would be admitted, but on enquiring of General Ruger found that he would be compelled by his orders to keep them out; so that in point of fact United States troops are at this moment excluding the lawful and undisputed quorum of one branch of a State Legislature from their usual place of meeting in the State-House, under the orders of a Governor whose title to office has only been recognized by means of a minority of one branch of the Legislature, and which the Supreme Court pronounces an unlawful body.

The result of the electoral vote, through the appointment of a Democratic elector in Oregon, is to give Tilden 185 votes, and we wish very much that this, or the other "count" which gives Mr. Hayes the same number of votes, could be considered a settlement of the Presidential contest; but instead of settling anything it has merely introduced new complications. The Democratic theory is that the Governor of Oregon had no choice but to issue his certificate to Cronin, on the ground that Watts, the postmaster who received a majority of the votes, was ineligible, and that the fact of his ineligibility must have been, from the nature of his office, notorious. There is no doubt whatever that votes cast for an ineligible candidate are simply wasted; the ballots are always treated like so many pieces of blank paper. The only question of difficulty is whether, after they are thrown out, the defeated candidate comes in or the office remains vacant. The question has been most care-

fully examined in the case of *The People v. Clute* by the Court of Appeals of this State, and the facts are so strikingly like those of the Oregon case that the two are worth comparing. Clute was Supervisor in the Fifth Ward of the city of Schenectady, and ran as candidate for Superintendent of the Poor, a county office. His majority was twenty, and in his own ward, which was also an election district, 295 votes were cast. Clute's supervisors made him ineligible, and the votes cast for him void. The court, however, held that his competitor was not elected. The principle of the decision is very simple. It is that the candidate who has really received a minority of the votes cannot be elected unless the fact of the ineligibility of his competitor was so brought home to the people who voted for him that they must be taken to have *wilfully* voted for a person they knew could not be elected. This, too, must not be left open to inference or conjecture, but must be capable of actual proof. There are cases which hold a different doctrine: that the minority candidate comes in when the disqualification was generally known. But they are opposed to good sense and to public policy, as they amount to saying that thousands of people who go to the polls and exercise the right of suffrage for the express purpose of electing a particular candidate, may be presumed to have desired to elect the candidate they voted against, and to defeat the candidate they voted for.

The most important piece of work in Congress has been the decision of the question as to the existence of the Twenty-second Joint Rule by the Senate. The Democrats, instead of voting as they were expected to, supported the position taken by the Republicans—that the Rule was not in force. In the House the rules have also been discussed, the Democrats maintaining that they are in force. The silver dollar has again shown its head, Mr. Bland calling up his old bill; and, if we may judge by the preliminary discussion and the vote, there has been much thoughtful study among the members during the summer and autumn. The silver reformers are clearly right in pressing the matter to a vote now, for silver is going up very fast, and there is no principle of political economy better settled than that any law regulating the circulating medium should be passed before the material of which the medium is made has reached a price at which it will not circulate.

The removal of Mr. Fairman from the Philadelphia postmaster-ship shows what "reform" is understood to be by the managers of the Reform Republican Campaign. Mr. Fairman was promoted four years ago for faithful and efficient services as deputy postmaster, and he performed his duties as postmaster so well that when his commission expired his reappointment was asked for by the entire community. He had, however, figured in the Cincinnati Convention as an "independent," and interfered with "Don" Cameron's management of the Pennsylvania delegation. The reform campaign being over, "Don" is at liberty to attend to such cases as this, and Fairman is immediately dismissed. To select the present moment for this kind of work is natural enough; but the contemptuous defiance of the "reformers" which it shows ought, we think, to bring some of these gentlemen to a sense of the absurdity of the assurances they kept giving us during the campaign that the way to secure a better civil service was to pretend to believe that what "Zach" Chandler and Don Cameron were after was the elevation and purification of political life. All the brethren really knew that they were after the post-offices, and that what they called "supporting Hayes" was really ensuring their getting them.

The Republicans of Worcester have taken a step towards emancipation from the caucus for which they deserve very hearty

praise. They had to nominate a mayor, and for this purpose polls were opened at the Republican headquarters on Saturday and Monday week, until nine o'clock in the evening. The voters, of course, were Republicans only. Check-lists were used, and a constant supervision exercised by a committee of six. Printed ballots were ruled out, but would-be candidates or their friends were allowed to advise freely any one whom they supplied with pencil and paper. The aggregate number of votes cast was surprising, being 2,122, against 4,800 cast for Hayes in October. The favorite candidate received 791, and on the following Wednesday this choice was cheerfully ratified at a mass meeting. He is a prominent manufacturer, and has served in the State Legislature as well as in both branches of the city government. His nearest rival on the preliminary ballot had 728 votes, and a more ambitious man might have endeavored to capture the ratification meeting. He would obviously, however, have incurred some odium in doing this, and in case of a bolt would have been likely to fare hardly on election day. The present candidate is spoken of as one whom the managers of the caucus would probably have left aside as not efficient enough for their uses. Altogether, the result is very gratifying, and if the innovation should spread we may expect to see it everywhere produce a higher political tone and a greater interest in public affairs. The weak point in the machinery is of course in the counting of the votes, but this might be readily overcome by requiring not only that each voter should write down his choice but sign it with his name. The slips might then, after the count, be pasted on sheets or in a book in alphabetical order, and be open to inspection on demand of any voter, and subjected to a re-count in case of doubt or suspicion. A still farther check would be stamping a number on each ballot as received, and giving a duplicate number to the voter.

A decidedly original method of raising funds for campaign expenses was initiated by Boston Democrats last Friday evening. At a meeting of the Democratic Central Committee—the roll-call showing 174 members to be present—held for the purpose of nominating candidates for the Board of Aldermen, twelve candidates were duly chosen, when, upon motion of one of the leaders, a gentleman who has heretofore headed his party's ticket for mayor, it was voted to assess the candidates \$50 each for campaign expenses. Undoubtedly candidates for office have been assessed before now, but we do not recall a previous instance when the fact was written out so plainly upon the journal of a nominating convention. The matter-of-fact manner in which the motion was put and carried, its commercial straightforwardness and political *naïveté*, combine to render it worthy of some attention from observers of our national morals. We are not sure, moreover, that there may not be found in this method of raising funds some hint at the kind of steps in civil-service reform likely to be taken by the Democrats should they come into possession of the national offices, and if so, we are obliged to pronounce it preferable to that now pursued by the party in power. Candidates are always more numerous than office-holders, and more ready to pay promptly their political assessments; and it is certainly more in accordance with the kindlier sentiments of our humanity to lay hold upon the pocket-book of the hopeful candidate than to attempt to squeeze his pennies from the poor clerk who is trying to pay his bills on \$1,200 a year. It ought to be noted that in the present instance, as the Boston Aldermen serve without pay, it would have been impossible after election to assess their salaries.

On Tuesday evening of last week occurred the saddest and most inexcusable destruction of human life by fire which it has ever been our duty to record. The burning of the Brooklyn Theatre, caused by a portion of the lighter scenery coming in contact with an imperfectly guarded gas-jet, towards the close of a performance, was attended with the unprecedented loss of nearly or quite three hun-

dred persons, most of them those whose seats were in the highest and least accessible part of the house. The gradual dawning of this fact upon the consciousness of the community, the discovery of fresh remains—of remains literally in leaps—the identification of the bodies by friends and relatives, the burial in a common grave, the commemorative discourses from the pulpits, have made the event singularly impressive. The first practical result of it has been to alarm theatre-goers in the two cities, and to move the authorities to inspect the buildings not yet consumed. This inspection has only revealed the general insecurity and want of protection against fire and panic. In the case of the Brooklyn Theatre the means of egress were inadequate, and though water-pipes had been laid upon the stage for such an emergency, not a fire-hose was attached or on hand, nor even so much as a bucket of water. With the fire once well started the theatre was doomed, for like most theatres in this country—especially such as have been altered from churches and lecture-rooms—it was in reality but a single hall divided into lobby, auditorium, and stage by partitions so slight that the fire spread unimpeded through the whole building, the partitions serving only to feed the flames they should have checked. Worse yet, the proscenium arch was not continued to the roof; it only met a false dome suspended over the auditorium several yards below the roof, and as the flames on the stage sprang to the roof, they were drawn by the draught into this open space between the roof and the dome, the flimsy canvas of which caught fire at once, and dropped in flaming fragments, firing the front of the house before the rear was really beyond control. We print in another column a contribution to the discussion as to how to prevent the recurrence of such frightful catastrophes. Clearly the first guaranty against them must lie in the construction of the building itself; but we need besides to follow the European example of a permanent fire brigade attached to each theatre, at its post behind the scenes during every performance, and visible to the public at all the outlets.

The price of silver in London has advanced during the week to 57½ d. per ounce, English standard. In New York the price per ounce, 1,000 fine, has advanced to \$1 24¢ to \$1 25, and round amounts could not be obtained much below the higher figure. In general terms, it may be said that the London silver market, which controls the markets of the world, has advanced because of the strong demand for silver to ship to India and China. This rise in the price may have an important influence on legislation at Washington respecting silver. When, at the last session of Congress, the furor for the "dollar of our fathers" was strongest, the price of silver in London was as low as 46½ d. per ounce, and the gold value of the "dollar of our fathers" would then have been a little less than 79 cents. At that time the promise of the United States Government to pay one dollar (the legal-tender note) was worth, expressed in gold, about 89½ cents. It was, therefore, quite natural that the advocates of cheap money should clamor for the good old silver dollar, and should show an unsuspected reverence for the money of the Constitution. Now that silver has returned to somewhere near the price at which it had ruled, until last year, for a generation, it remains to be seen whether the cheap-money men will transfer their allegiance to the "battle-born and blood-stained greenback," or will prove steadfast in their devotion to the silver dollar of 412½ grains. The actual gold or bullion value of the latter would now be 96½ cents, while the gold value of the greenback is now only 93¼ cents. Except for the decline in what is called the gold premium, the silver small change would now certainly disappear from circulation; as it is, there is danger that it may, either by reason of a further advance in the price of silver, or within a few months by advance in the gold premium. Had the gold premium remained as high as before the adjournment of Congress last summer, the silver small change would now be withdrawn from circulation to sell as bullion, and the country would now be using improvised shinplasters, as it did immediately after the outbreak of the war in 1861.

THE POLITICAL SITUATION.

THE Presidential contest has now entered on another stage.

Hayes has received on the face of the returns 185 votes, having secured the three disputed States, and Tilden has also received 185 votes by the aid of one disputed vote from Oregon, from which State Hayes claims three. This Tilden vote from Oregon has been secured in appearance, at least, by the award of a certificate to the Democratic candidate having the next highest number of votes to a Republican candidate who was found to be disqualified by reason of his being a postmaster. There has been a good deal of legal lore expended on the matter in the newspapers, and the conclusion to which it all points seems to be that nothing but proof of knowledge of the disqualification on the part of the voters of the State would suffice to make the election of the Republican a nullity and give the place to the Democrat having the next highest number of votes, and of course no such proof is forthcoming. But we dare say Cronin's—the Democrat—appearance in Washington with a certificate, regular in form, will furnish the Democrats with a sort of excuse for a contention over the right of Congress to go behind the returns—that is, the House will probably try to use the case as a means of compelling the Senate to look into the work of the three Returning Boards. Whether the move will succeed or not there is no use in trying to calculate, but it is quite certain that if successful it will only make confusion worse confounded. In the first place, whatever moral weight the Democratic position now has in the struggle over the vote will be destroyed by any effort, even though it be only a piece of tactics, to use such a performance as Cronin's as a determining agency. What the public is now most interested in is the election of somebody in a manner that will command general confidence. A technical victory would therefore do the Democrats no good. They would have no popular support in trying to force the Senate to count a vote cast by a person who was plainly not elected by a majority of votes in his State, and in the event of a deadlock they would therefore be sure to be defeated; nor, if successful, can Tilden afford to take office on such a vote. No man can afford to take the Presidency on any quirk or quibble, or in virtue of any merely technical rule. So that the law of the Cronin affair is really of but slight practical importance.

In the second place, if the practice of going behind the returns be established, we probably have seen the last of orderly and decisive elections. Every close election would be disputed before Congress met, and, when it did meet, there would invariably be a controversy over the count and a demand for further enquiry, and committees would be despatched to make reports which would settle nothing, and merely furnish materials for partisan articles in the newspapers and inflame the passions of the politicians. The local quarrels and intrigues in all the States would be transferred to Washington, and converted, like those of South Carolina and Louisiana, into national questions over which the whole country would be convulsed, and about which, nevertheless, nobody at a distance would have the means of forming a reliable opinion. Moreover, "intimidation" being the vague thing it is, every unprincipled governor, working for re-election or trying to help his party, would have, as we believe Kellogg has, a direct and powerful motive for not policing the State or repressing crime. It would always be the interest of the party in power in any Southern State to promote disorder and let crime go unpunished in order to have a stock of "outrages" ready at election time. In fact, we see nothing but chaos as likely to result from the assumption of "judicial functions" by Congress in the matter of counting the electoral vote, and we trust that, in spite of Republican precedents, any attempt to perpetuate the practice in February next will be defeated. The Government could never stand the strain of having Congress act as a National Returning Board with judicial powers. Nor does the proposal to impose the duties of such a Board on the Supreme Court seem any more commendable. We do not believe the Court would long bear up under them. The judges would be the object of frantic denunciation after

each "count"; and the last party would, when in power, have as part of its programme schemes for packing the Court in readiness for the next Presidential election, by increasing the number of judges or otherwise, and their credit and authority would rapidly decline under the suspicions of all sorts that would settle down on them. In fact, there is only one course open to us in this matter, and that is to let the States manage their own elections and accept the result as they give it. We cannot make State governments better than the population of the State want to have them. It must be remembered, too, that the performances of the Southern Returning Boards have owed most of their importance of late to the closeness of the contest, and we suspect that they will always be a source of fraud and dispute under any circumstances. When the politicians of a State find that they have a casting vote Satan is pretty sure to enter into them, and nothing the rest of the country can do will hinder him.

Of course, all this means that the wisest course for the Democrats and everybody is to allow Hayes to take the Presidency quietly and without further dispute on the 4th of March next. This will doubtless be a very unpalatable course to those who cannot afford to wait four years more for another such chance as apparently now offers itself to them; but the country desires law and order and certainty, and does not now particularly care who is President, provided there is general acquiescence in his accession. We do not ourselves see how Mr. Hayes can, if he be the man he has been represented, take the place under the circumstances, but this is a matter between himself and his own conscience, and there is every reason to believe that he will make a good President. It is a great misfortune for the country to have any man hold the Presidency by a disputed title, but the continuance of disputes is a worse one. People desire tranquillity, and will punish whatever wrong-doing there may be now at the next election, in the regular constitutional way, and not by threats and vituperation.

We hoped when the real result of the election was first announced that the prospect would have a sufficiently sobering effect on both the candidates or their managers to induce them to take steps in concert to reassure the public and bring about in some way a satisfactory settlement. We hoped, for instance, that Mr. Hayes and Mr. Tilden would agree upon half-a-dozen men of unimpeachable character and standing who should go down and look into the doings of the Boards in the disputed States, and make a report by which they would both abide and which the public would accept; but neither of them seems to have made the slightest move in that direction. We have heard it was suggested to Mr. Tilden by some of his own friends and rejected; if so, he has incurred a heavy responsibility. We thought it not impossible also that if the President sent down inspectors he would choose them outside the ranks of active politicians, and, if possible, from both parties, but instead of this his selections were all stolid Republican partisans, with one prominent lawyer, Mr. Stoughton, who had written and published an elaborate opinion in 1875 justifying the military interference with the Legislature in Louisiana, which General Grant afterwards repudiated and apologized for. Even if this committee had behaved better in New Orleans, its report could hardly be expected to command much respect or attention. From the Congressional Committees it is possible that something decisive may come, as the Returning Boards begin to writhe, but we are not sanguine. What is worst in the situation is, that owing to the character of the men who were allowed to conduct Mr. Hayes's canvass and the course affairs have taken at the South, there is a strong suspicion abroad, which it will be hard to allay, and in fact which Mr. Hayes will have to "live down," not only that he is profiting by the doings of the Returning Boards, but that those doings were part of a plan long prepared, and that when Chandler assured the Republican papers on the mornings of the 8th and 9th December that Hayes was surely elected, although no fresh figures had come in, and Tilden had apparent majorities, and intimidation had still to be proved, he (Chandler) was relying on the excellence of his own arrangements rather than on his knowledge of facts. He ap-

parently knew that there had been just intimidation enough to give Hayes small majorities. We hope this may prove a lesson in the value of character in managers in these times. The Chairman of the Republican National Committee ought to be a man whom nobody would suspect of such things for a moment. But the time to punish whatever underhand dealing there has been is in 1880. It seems to us that the only sound course now is to stop quibbling and chopping logic, to accept the Southern figures, however bedeviled, and inaugurate Hayes in the interest of peace and quiet, and for the better preservation of constitutional forms. Any other course is Mexican.

APPOINTMENT OF PRESIDENTIAL ELECTORS.

IN the absence of any more positive and authoritative interpretation, the true intent of the Constitutional provisions concerning the choice of the President, the appointment of the electors, and the respective functions of the State and of the national Governments, may be inferred, in part at least, from the proceedings of the Convention, by following the progress of the entire subject in its changing shapes and phases through that body. Excepting the representation in Congress, no topic occupied so much time or occasioned so much discussion in the final adjustment of its details. It is a very remarkable fact, when compared with the subsequent rapid development of democratic doctrines, that an election of the President by the people, either directly or through the interposition of electors, seemed to the Convention so utterly impracticable that propositions to adopt such a mode of choice were not regarded as even worthy of debate, but were dismissed as purely chimerical. At an early stage of the proceedings Mr. Wilson, of Pennsylvania, moved that "the Executive should be elected by electors to be chosen by the people in prescribed election districts." This motion was defeated, Pennsylvania and Maryland alone supporting it. Mr. Gouverneur Morris, of Pennsylvania, subsequently moved that "the Executive be chosen by the citizens of the United States," but his motion was supported only by the vote of Pennsylvania. The same suggestions, when renewed by one or two other members, met with a like fate. Until the Convention had nearly completed its labors, the plans which received any serious consideration and advocacy were three: that the Executive should be appointed by the Congress, by the State legislatures, and by the State executives. It was first voted, by eight States against two, that he should be chosen by the national legislature. After a reconsideration, a prolonged discussion, and several conflicting votes, the matter was referred to the "Committee of Detail," who reported in favor of an appointment by Congress. In the meantime, however, a change seems to have taken place in the opinions of the members, as the dangers to be apprehended from a legislative election were strongly presented during the debates, and the subject was again referred to a special committee consisting of one from each State. This committee reported the electoral scheme which was, with certain modifications, adopted as a part of the Constitution. Their report provided that the electors should vote for two persons; that their votes should be sealed up and transmitted to the President of the Senate; that he should "in that House" open all the certificates, and the votes should then and there be counted; in case of a failure to make a choice, the power to elect was conferred upon the Senate alone; and it was added that "Congress may determine the time of choosing and assembling the electors, and the manner of certifying and transmitting their votes." Strong objections were at once made to that clause of the report which gave the final power of choice to the Senate, and it was struck out. A motion to substitute "the legislature" in place of the Senate was lost, and the House of Representatives was inserted, with the additional provision that each State represented in that body should have but one vote. It was also directed that the certificates be opened in presence of the Senate and the House of Representatives, instead of in the Senate alone. The plan thus proposed by the committee and amended by the Convention was incorporated into the Constitution, with one mat-

terial alteration, which seems to have originated with the committee on revision—the omission of the clause giving Congress power "to determine the manner of certifying and transmitting the votes" of the electors. The amendment occasioned by the political intrigue and combination which nearly defeated Mr. Jefferson in 1800-1 relates only to the method of voting by the electors, and does not alter the manner in which they are to be chosen.

These proceedings and the debates which accompanied them clearly show that, according to the design of the Convention, the choice of Presidential electors was given to the several States; the manner of their appointment, and, incidentally, of determining all questions concerning the regularity and sufficiency of such appointment, was intentionally left with the individual commonwealths. In discussing all grave questions of construction which are as yet unsettled by any precedents of acknowledged authority, we must recur to the underlying principles upon which the entire organic law is based. The central conception was well stated by Mr. Wilson in the Pennsylvania convention called to ratify the Constitution; and as political parties or governments have departed from it on the one side or on the other, usurpation of power and invasion of rights have been the inevitable results. It may be formulated in the following propositions: Although the United States is a nation and not a mere federation, and although its Constitution creates a national Government and is not a mere federal league, yet that Government assumes and is based upon the States as organic societies; all its departments and branches, except the House of Representatives, so completely and immediately derive their existence from the States acting in their political capacity that without these creative sources it would vanish. The Government, according to this national theory, is certainly the representative of the one people of the United States, and as such must, through some one or all of its departments, finally decide upon the extent of its own powers, since these powers were conferred by the people, and not by the States; but in the single matter of constructing the *personnel* of this Government—of choosing the officials who for the time being exercise its functions, except the Lower House of Congress—the States were made the sole agents.

This principle, which appears in all parts of the Constitution, applies with special force in solving all questions concerning the choice of Presidential electors and in ascertaining the nature and extent of the powers, if any, possessed by Congress or by either House to determine the regularity and sufficiency of their appointment in any particular instance, or to pass general laws by which such regularity and sufficiency may be determined in all cases. The language of article II, section I, to which reference has already been made, is very remarkable in two of its features—first, the entire absence of any express authority conferred either upon the national legislature as a whole or upon either of its branches; and, second, the peculiarity of the terms which are employed to describe the part taken by the two Houses in the act of counting the electoral vote. The votes which have been cast in the several States are transmitted to the seat of government, directed to the President of the Senate. In the original draft of the article, that officer was to open all the certificates in the Senate. This provision was so modified by the Convention that he is required to open them in the presence of the Senate and House of Representatives, "and the votes shall then be counted." These peculiar terms must have been chosen with some design. The certificates are not to be opened in the presence of "Congress," and it may fairly be inferred that the two Houses are not present in their legislative capacity as the Congress, but in their separate and individual capacity; and it certainly is not directed that they, either as the legislature or as distinct branches thereof, shall take any part in the counting otherwise than as spectators. The act of the Convention in omitting the clause empowering Congress to determine the manner of certifying and transmitting the electoral vote also throws some light upon the true intent of the provisions which they did adopt. The absence of any express power conferred upon Congress or upon either House to interfere with the electoral certificates, or to pass upon

the validity of the State proceedings which have terminated in the official appointment of the electors, or to perform any other function except fixing the time when the electors shall be chosen and the day on which they shall give their votes, stands in marked contrast with provisions which do grant an analogous authority to other branches of the Government. For example, the Senators, as well as the Presidential electors, are appointed by the several States, and sit as their immediate representatives in the national legislature, and yet the Senate is permitted to judge of the elections, returns, and qualifications of its own members. It may be reasonably—even if it must not be necessarily—inferred that if Congress or either House were to decide in any particular instance whether electors whose credentials are regular had in fact been properly chosen in accordance with the laws of their own State, or were to review the proceedings of the State officials conducted in pursuance of those laws, and were thus to pronounce upon the validity of an appointment which appears on its face to be lawful; and *a fortiori* if it were intended that Congress should pass general laws providing for an investigation and decision by itself or under its direction in all cases, such a power, which is opposed to the plain tenor of the entire electoral scheme, would have been granted in express and unmistakable terms similar to those which enable the Senate to pass upon the election of its own members, and for that purpose to go behind their official credentials and certificates.

In conclusion, it thus appears, from the history of the Constitutional plan during its process of construction by the Convention, from the essential nature of the government of which this scheme is an integral part, from the complete absence of any express authority over the subject-matter given to Congress or to either branch thereof, and from the peculiar phraseology employed to describe the part taken by the two Houses in the act of counting the votes, that the power not only to choose the electors, but to determine in every individual case the validity of their appointment, belongs wholly and exclusively to the several States. This must be taken as the fundamental principle which determines the nature and extent of the legislative authority possessed by Congress, and which restricts the functions of the national legislature and of either House simply to the *identification and registration* of the official acts performed by the States in pursuance of their own laws. No additional authority can be claimed for Congress under the general clause, found at the conclusion of art. I., sec. 8, permitting the enactment of all laws necessary and proper for carrying into execution the powers vested in the Government or in any department or officer, since the very question to be decided is, What power has been thus vested? and it is an elementary doctrine that this clause is not the source of any power, but rather restricts than enlarges the scope of legislation. The broad and universal principle reached through the foregoing analysis has been intentionally stated in its most general terms. It must control in the decision of every disputed Presidential election, but its application to the present controversy must be made by the reader.

MR. MORRILL ON RESUMPTION.

THE absorbing interest of a disputed Presidential election has prevented Mr. Morrill's report from attracting the attention which is fairly due it. The quarter in which it will receive the most careful consideration will probably be abroad, and, fortunately for us, the result of this consideration cannot but be to strengthen the credit of the country. The showing which he makes is good, while his proposals for the future are marked with much of the same sort of caution and common sense which Mr. Bristow brought into the administration of the finances; and it should not be forgotten that it is really caution and sense of the kind that would enable a rich but embarrassed private company or trader to meet their outstanding obligations, and not brilliant "financiering," that are now most needed at Washington.

With regard to resumption, what Mr. Morrill has to say is plain and direct. The Government is, as he tells Congress, pledged to re-

sume on the 1st of January, 1879, and the only question is, How this is to be done. The fact that the step involves contraction he does not shrink, but points out that this is "not of itself necessarily an evil," and that, "if it were, it is an evil incident to a vicious system, not cured by the continuance of the evil, while the measure itself is demanded by the highest economic considerations and principles of honest dealing among men." He reviews the history of the "blood stained, battle-born" greenback in a way that must be very painful to staunch patriots of General Logan's school, and shows that, though it may from an antiquarian point of view be regarded as a memento of a great struggle, it is, as a matter of law, fact, and reputation, a badge of national insolvency, and has been so declared to be by no less authority than the Supreme Court. Mr. Morrill goes even much further than this: he recalls the fact that the legal-tender notes are outstanding to-day "only because the original provisions for their funding have not been enforced, and that fanciful and speculative theories have proposed their permanent incorporation into our monetary system as not incompatible with the hard money of the Constitution and the hard-money traditions of our people," and declares that the "policy which tolerated the continuance of these notes as money after the close of the war must be regarded as a public misfortune"—an admission which certainly is as complete as could be desired, though, coming from the party which has been in power since the close of the war, a little late in the day. But Mr. Morrill's own business is with the future rather than with the past, and he therefore proceeds to consider the means for resumption provided by the act of January 11, 1875. This evidently strikes Mr. Morrill, calmly seated in his official chair at Washington, in a very different light from that in which it appeared to stamp-speakers engaged in haranguing excited multitudes on this subject during the late campaign. He says:

"As a further provision deemed essential to the purpose of resumption, it is recommended that, in addition to the authority of the Secretary of the Treasury already conferred—to provide for redemption of the legal-tender notes on and after the day provided for resumption, by the accumulation of an adequate amount of gold to meet the volume of three hundred million dollars of legal-tender notes, which will then be outstanding, by the sale of United States bonds—authority be given him from time to time, as he may deem expedient and the state of the finances admit, to fund these notes into a bond bearing a rate of interest not more than four and one-half per cent., with not less than thirty years to run, with such limitations as to the amount to be so funded in any given period as Congress, in its discretion, may determine."

The actual amount of legal tenders now outstanding is stated by Mr. Morrill to be \$367,535,716, and the process of voluntary contraction under the provisions of the two acts of 1874 and 1875 (one authorizing the retirement of the circulation of national banks, and the other compelling the cancellation of greenbacks against new notes issued to banks) seems to be still going on. Taking the bank-notes and legal tenders together, the total contraction in circulation under these acts and the effects of the depression of business, is \$43,607,748. When we reflect that this contraction has been going on simply because the country had no use for the money, the old banks insisting on returning a large part of their existing funds to Washington, it seems almost impossible to believe that there is a large political party in the country which insists on the issue of more greenbacks—an organization, too, strong enough to make the dominant party stifle in its convention a resolution ratifying its own solemn pledge of resumption in 1879, and to make the Opposition actually pass a resolution denouncing the act promising resumption in 1879 as an obstacle in the way of specie payments. Now that the campaign is over, the Secretary of the Treasury has no hesitation in declaring that "the volume of currency is largely in excess of the real demands of legitimate business," and that "a portion of the legal tenders might be gradually withdrawn without embarrassment to the business of the country." To sum up Mr. Morrill's propositions, he asks that with authority to accumulate gold he may also issue funding

bonds, and further that the national banks be required to accumulate coin as part of their legal-money reserve. The exact amount of coin which will be needed on the 1st of January, 1879, to redeem such of the legal-tender notes as may be presented, he does not attempt to determine, but gives the outline of a plan which he leaves for Congress to finish in detail. With regard to silver resumption, Mr. Morrill, we are happy to say, has no delusions. He points out that, so far from the "silver dollar of our fathers" ever having been in common use as currency, gold has, as a matter of fact, for many years past been the money of payment in this country; that neither fathers nor sons ever brought the silver dollar into common use, because they preferred the metal in other and more valuable shapes; that this fact and the common understanding among the creditors of the country, and the well-established habit of paying interest on the bonds in gold, and collecting customs (pledged for this purpose) in the same metal, and the law of 1873 demonetizing silver, all together make resumption in anything but gold an act of "doubtful good faith" and "its probable effect prejudicial to the public credit."

That Mr. Morrill's advice will be acted on during the present session of Congress probably neither he nor any one else expects; but the appearance of his report is, nevertheless, of importance as marking the beginning of a distinct attempt to do what ought, as he himself admits, to have been done long ago. We have now evidently entered upon the second stage of resumption, that of actual preparation; and with everything in our favor, as it now is, we ought to be able to resume at an early day. Whether Mr. Tilden or Mr. Hayes comes in, we have no doubt that after the fourth of March the long-needed legislation will be provided and the country put on the high road to prosperity by the reintroduction of the standard of value common to the civilized world.

POLITICAL CASUISTRY.

WE have often spoken of late in these columns of the defective condition not simply of popular but of professional education with regard to the morality of transactions of even slight complication—or, in more general terms, with regard to what may be called the casuistry of commercial and political life. We have had striking illustrations of this, which we have frequently used in the *Nation*, in the treatment of the currency question, both in its paper and silver phase, in the question of the payment of the bonds, and in the question of the distribution of the Alabama damages. On all of them one found not only the "plain people," but even teachers of morality, divines, and professors of moral philosophy, in a state either of helpless perplexity or wrongheadedness, often of tortuousness. There was seldom absolute dishonesty in it, however—for we are not now talking of the race of politicians and "smart men" to whom trickery as trickery has positive attractions. It was simply the result of men's being suddenly forced to pass on a matter which they had never thought out, to apply rules with which they were wholly familiar to states of facts with which they were wholly unfamiliar—the sort of confusion, in short, which might overtake a young lawyer well grounded in the principles of his profession if called on to use them without preparation in a controversy arising in a business of which he knew nothing. But the facility with which this incapacity can be explained does little to reconcile us to it; no matter how we look at it, it is a great public misfortune. To have the ethics of a country in the hands of men who know little of affairs, and its affairs in the hands of men who know little and care less about its ethics, is surely very deplorable, and yet this is not an unfair description of our condition. Sermons on practical questions on Thanksgiving Days and the like often read as if delivered ages ago to audiences long passed away, while articles in religious newspapers often have the flavor of homilies to persons whose temptations are simply in the direction of lying and petty larceny. What we need in the pulpit, and in the religious-paper "sanctum" most of all, is readiness in the application of the great principles of morality to the ramifications of circumstance, the conflicts of duties, the remote dangers, and the duplex responsibilities of which so many of our great social, political, and economical problems now consist, and this readiness cannot be acquired by mere familiarity with principles. It needs practice, and practice means a constant and easy acquaintance with, at all

events, the leading phenomena of politics and trade and public law, so that they can be spoken about not tentatively or timidly, but with the force that comes from preparation and reflection.

We have been much interested in connection with this subject in the reception given by a portion of the religious press, and by some of the clergy, to our proposal that one of the Hayes electors should, in order to avoid the calamity of a disputed election, cast his vote so as to throw the election of the President into the House, and thus keep the process of changing our chief ruler within the domain of law and out of the domain of revolution. We do not concern ourselves here with what the party newspapers and politicians said about it. To these persons such a step is, of course, a violation of the rules of their game, and therefore in the highest degree abhorrent, and affects their temper very much as a proposal to restore a prisoner without ransom would affect the temper of a band of Greek brigands. It is only by the strict enforcement of these rules that they keep up their business, and they strain every nerve to make the bulk of the people, especially at the time of election, look on them as sacred. The effectiveness of the machinery of politics, and especially of the caucus and nominating convention part of it, depends on the solemn observance of them by the voters; and, on the whole, politicians meet with but little resistance to their demands from the non-practical man, and are generally able to prevent any unpleasant examination of the remainder results of their schemes as long as the immediate one has palpable merits.

The rule that a Presidential elector must vote for the nominee of his party is a rule of precisely the same character, and with the same moral limitations, as the rule that a Republican member of a legislature must vote for the party nominee for the Senatorship. That is to say, he gives an implied pledge that he will under all ordinary circumstances vote not exactly, as in the case of the Presidential electors, for a particular man, but for a man taken from a particular class (or party). There is no law which obliges him to do so; he is compelled to it by the tacit obligation to act together in political transactions on which party organizations are based, and without which they could not exist. Party is a necessary thing in a free state; to accomplish much for the public good one must in almost all cases act with or through a party. But there are, it is universally acknowledged, cases in which it is the duty of honest men, remembering that party is after all but a means to an end, to act in opposition to or separate from their party. They occur in the experience of every upright politician, Senators and Representatives of the highest character every session, and especially in troublous times, occasionally vote against their party, and the best portion of the party honor them for it. How then does it happen that some people are horrified by the suggestion that a Presidential elector should follow his own judgment in casting his vote? The moral obligation to vote for the party nominee is of the same nature in the case of the Presidency as of the Senatorship, though the circumstances are slightly different in this, namely, that in the one case it is obligatory to vote for A. B.; in the other, to vote for some member of the class C. There is only one reason for it—viz., the greater importance of the Elector's trust, and the infrequency and conspicuousness of its exercise, and the excitement of the public mind at the moment of its exercise. People are always impatient of a departure from the party programme, and often in times of excitement do not allow their impatience to be curbed even by the simplest rules of morality. For instance, in 1867, at the trial of Andrew Johnson, excellent, reasonable men all over the country were violent in their denunciations of the Republican Senators who voted "not guilty," on the ground that it was their duty to the party to vote "guilty," although it was well known that those Senators had taken a solemn judicial oath to find a verdict "according to the evidence," and of course "a true verdict," in obedience to their own conscience and judgment. We remember at that time seeing ministers of the Gospel, editors of religious papers, and professed moralists stamping in blind rage over the perfidy of the minority, as if they had been bred savages and had never heard of the judicial oath and were entirely unfamiliar with the civilized conception of justice. In that case, as in this, they were taken by surprise. A state of facts for which they had made no mental preparation came suddenly upon them and disordered their judgments and caused their passions to shoot up with a fiercer flame.

It is not questioned anywhere, and has never been questioned, that the Presidential electors were originally intended to be a select body of men who should use their own judgment in the selection of the President and Vice-President. This duty was taken away from them and given to nominating conventions by a very simple process, and the transfer needed no change in the Constitution, and therefore no such change was ever made. It was at first carried out by making electors of the men who were known to desire

the election of a certain person. But the original idea was not so much that the elector was employed for a certain purpose as that he was chosen because he held certain views. Naturally enough the former idea, however, gradually gave way to the latter one, and the elector came more and more to be regarded as the *trustee* of the party, charged with the duty of casting his vote for a certain person designated clearly beforehand, and such he is to-day. Now, we supposed that almost everybody was aware that such a thing as absolute trusteeship was unknown in Christendom. We knew Chandler and Blaine and the like would tell the editor of a religious paper that it was quite common, but we did think he would know better than to mind what they said, and that when the question was asked him, is there such a thing in our laws or manners? he would have the answer at his fingers' ends, and say promptly, "No, of course not. Not only in American and English jurisprudence, but in the jurisprudence of all Christian states, is the creation of anything of the kind impossible by any contract or understanding. Our legislation and our customs protect under all circumstances, as you will find in any of our elementary books, the rights of the individual conscience and the claims of the public good. We know of no trust, public or private, which is not saddled with the tacit condition that the trustee shall not be called on to exercise it in aid of any species of wrong or fraud, or in the execution of any conspiracy, plan, or combination against the public welfare. If any one tells you that such trusts exist in our politics or business, or are sustained by our religion or laws, tell him he is either ignorant or mendacious. Every holder of a trust in America, no matter of what nature; every agent, employed no matter by whom or for what purpose, is bound to take notice of the moral quality of his acts and of their probable results. If you were appointed a member of a board to build a church, with a large sum of money collected for the purpose, no directions, however explicit, from the donors to employ a particular builder would excuse you for employing him, if you found he was in fraudulent collusion with your colleagues. You would be bound, if you could not communicate with your constituents, to use all your efforts to prevent any contract with him, to procure the employment of another man, or to postpone the whole business so as to admit of further enquiry and discussion. So, too, if a stockholder in a company, knowing that you, a stockholder also, are going to vote for a particular list of directors, gives his proxy and asks you to do the same for him, and you find at the meeting that the ticket is the result of a dishonest combination, with fraud for its object, you are bound not to vote as he requested."

Moreover, every trustee is, under our system of morality, left a certain visible discretion in dealing with unforeseen contingencies. This reservation is involved in the very fact that he is a man, gifted with memory and reason and conscience. We are aware of this when we give him the trust, and do not ask him to degrade himself into anything less than a man. Mechanical trusts are a contradiction in terms. A machine cannot be a trustee. What we "trust" is human character and judgment, and in giving the trust, therefore, we say by implication that in case before he performs the act or acts which he undertakes for us anything occurs which would in his judgment make such performance injurious to our interest, and he has no time or opportunity to consult us, he must do what he thinks is best under the circumstances. We owe this to his human nature. We cannot use him as a dog or a horse. For instance, if in 1869 a Presidential elector had discovered before casting his vote that his candidate for the Presidency was in secret correspondence with the Confederates, he would have been bound by his highest duty to cast his vote either for some other person or to cast it in such manner as to remit the choice to Congress. Or, again, if an elector discovered before voting that a vast conspiracy had been entered into by the electors of other States, in combination with the Executive, to place in the Presidential chair, by mingled fraud and violence, a man clearly not fairly entitled to the place, and needing but one vote for the consummation of the scheme, good Americans and good men of all countries would hold that he ought not to give it, and that his judgment should be his guide in determining what other use he should make of it. Were it otherwise of course no honorable or self-respecting man would take a place in the Electoral College. For if there be one rule more deeply embedded than another in the political and social morality of the Christian world it is the rule that moral responsibility always goes with power, and cannot be separated from it, and that the responsibility is in the direct ratio of the power. No authority on earth can abrogate this rule; no constituency can do it, whether it consists of one thousand voters or forty millions. The union of the two existed before all political constitutions, is a fundamental part of them all, and will survive them all. The Presidential elector is clothed by law for thirty days with vast power: his vote may save or ruin his country, and this power is

during that period irrevocable. He may resign, but he cannot get rid of his responsibility by resigning if he thereby creates a vacancy which may be filled by a person ready to aid in the scheme which he feared to oppose. Technical pleas are of no value in the forum of morals. What some people would now have us believe is that he can keep and use the power, but may at the same time, by a mere "understanding" entered into in evasion of the Constitution with a small portion of the community whom the election is to affect, divest himself of the responsibility, and cast his vote with as much indifference to consequences as a beast of prey seeking food for its young.

As regards the crisis which has just passed, it was, of course, open to any elector to say that he did not share our view of the danger to be apprehended from a contested election; or that he did not feel competent to form such a judgment on the events in the three disputed States as would enable him to decide that any fraud was in contemplation or had occurred; or, in other words, to say that no contingency calling for a departure from the letter of his instructions had arisen—which is perfectly comprehensible and respectable ground, and is, we have no doubt, the ground that the ablest and best of the electors took. That it should have occurred to any thoughtful person that it was "immoral" to tell an elector in public, and with reasons, that a state of things had arisen which called, in the interest of the national safety, for a departure from his official programme and for a solemn retreat on his individual conscience, judgment, and courage, is something lamentable. It is a public disgrace that any body of Americans professing to be educated should suppose that there existed among us, or could be created by any "understanding" or contract, an Asiatic trust, such as pashas used to take from the sultan, binding a man to do a certain thing under all circumstances, come what might, even if, on a fair view of the circumstances, it resulted in the destruction of the Government. The discussion, like other discussions of late, has been useful (like prolonged physical exertion in searching out the weak spot in our body) in bringing to light the tubercular deposits left in our moral lungs by the life we have been leading during the last fifteen years. Huge majorities in Congress doing everything that came into their heads on the plea of necessity; the rise of sorry fellows into honor through devotion to virtues which they were never called on to practice, and resistance to temptations by which they were never assailed; alliances with all sorts of people for objects so good that it seemed impertinence to question the goodness of those who aimed at them; the association of party in the public mind with all that was dearest and best in politics and society, have of course given party obligations a sanctity which under ordinary circumstances and in ordinary times they could never have obtained. They have in the minds of large numbers secured claims on the conscience and judgment which have never yet been conceded to the law of the land, for this used to be subordinated to the "higher law." But now even "the higher law" has to give way to that holier thing—the duty of voting "the regular ticket," even though you thereby defeat all the ends of voting at all, and involve the very machinery you are employed to work in derangement or destruction.

Correspondence.

THE SOUTH CAROLINA BOARD OF CANVASSERS.

TO THE EDITOR OF THE NATION:

SIR: In your issue of the 30th ult. you say, in reference to the Board of State Canvassers of this State, that the Board "assumed judicial functions" and "decided the legislative contests in favor of the Republican claimants."

As one of the Board of State Canvassers I desire to correct you in this matter. The Board, when it furnished the Court with a statement of the votes cast as appeared by the returns of the County Canvassers—which statement it furnished under protest—distinctly stated to the Court that, as to Edgefield and Laurens Counties, there were evidences and allegations of fraud filed with the Board which, in their opinion, prevented them from making any declaration as to the election in those counties unless they had the opportunity of hearing protests and contests. Such opportunity was not offered them, and consequently the Board made no declaration as to the election in those counties, and consequently did *not*, as you assert, decide the legislative contests in favor of the Republican claimants, and *did not* issue certificates to them.

Again, as to the peremptory mandamus. The writ of peremptory mandamus was served about midnight of the day on which the Board had finally adjourned, and not before. As one of the Board, I certainly had

no knowledge of such a writ being allowed before the Board adjourned. I think the same can be said by the other members of the Board.

As to the Electors of President and Vice-President, the Board issued certificates to those who, on the face of the County Canvassers' statements, had the highest number of votes. Not a figure was added to the returns nor one taken away. Every return of the several Boards of County Canvassers was signed by one Democrat, and every one was examined by a Democratic lawyer when the tables of votes were prepared by the Board of State Canvassers.

I do not object to fair criticism of the Board, but when it is criticised the critic ought to be sure that his *facts* are correct. I would also ask you to bear in mind that the Supreme Court did not restrain the Board by any writ or order from performing the duties imposed on it by law, from the beginning to the end of the time during which the Board was in session, but, on the contrary, expressly declined to do so.

Yours respectfully,

WILLIAM STONE, Attorney-Gen. S. C.

COLUMBIA, S. C., Dec. 2, 1876.

[The statement that the Board "decided the legislative contests in favor of the Republican claimants" was substantially correct. By doing what Mr. Stone calls making "no declaration" as to the election in Edgefield and Laurens Counties, but what any one else would call *throwing out* these two counties, they gave the Legislature to the Republicans, and thus practically excluded the Democratic claimants, who were afterwards refused admission to the State-House. With regard to the peremptory mandamus, the decision of the Supreme Court that the members of the Board had committed a contempt is the best evidence we could have on the subject. It is notorious, too, that the reason why the Board, if it had no actual notice of the writ, did not receive such notice was that it was running a race with the Supreme Court, and adjourned for the purpose of avoiding notice. To say, therefore, that it had no actual notice is a mere quibble. We do not know that there is any conflict between Mr. Stone's other statements and our own.—
ED. NATION.]

THE CHIEF LESSON OF THE TIME.

TO THE EDITOR OF THE NATION:

SIR: I have found it hard work to keep silence under the many suggestive articles in your recent numbers, but those in the issue of the 7th have driven me to ask for a small portion of your valuable space. Your graphic picture of the situation of the office-holders and of the volcanic elements in the relation of the "ins" and the "outs" needs no comment. But what, I ask, can any President do about it? The new incumbent, whether Hayes or Tilden, will not and cannot be the responsible agent of the country, but only of a party majority acting through Congress. Neither the President nor his Cabinet has any power of appeal to the country. They cannot expose the terrible pressure to which they are subjected, nor, so long as they keep well with the majority, can they be called to account officially by anybody. For the success of their administration they must depend on lobbying and intrigue, and for this again they must buy a majority, which majority can be bought only by the offices. If our future President is in accord with the majority, there is no rascality which he will not be permitted, nay, urged to commit. If, on the other hand, he is opposed to the majority, he will be constantly liable to impeachment on the most frivolous pretext, for the success of which it would be only necessary that an adverse majority should exist in both Houses. If there should be a favorable majority in the House and an adverse one in the Senate, the next Congress will exhibit a contemptible process of chicanery between the two elements, while the public will be utterly unable to get at any reliable facts, and the newspapers will simply blow the trumpet of the party to which they belong. Is it not evident that, if the Executive is to exercise any independence in the matter of the offices, it must have some independence of position, must be able to appeal to and be responsible to the minority as well as to the majority, and must turn to the country for support against the pressure of party in the demand for office?

It is the Southern question, however, as the one of more immediate importance, that I wish to dwell upon. Could there be a more stupendous farce than that of the "Innocent Strangers" who went to superintend the operations of the Louisiana Returning Board? Everybody knew that Republicans and Democrats would give exactly opposite accounts of the same

thing. Each side was certain to convince its own partisans, and certain not to make the smallest impression upon any one else; and the same is true of the more pompous investigating committees of Congress. Again, the employment of troops in the South is likely to be necessary for some time to come; but the real evil of this is in their employment for partisan purposes. If, however, as we have seen, the President is and must be a mere party tool, how can they fail to be so employed? You remember the scene in "Barnaby Rudge" where the poor imbecile comes home to his mother, and the latter talks with him in deadly terror of the concealed figure which threatens her from behind the door. Before we judge President Grant we ought to know the pressure to which he is subjected. You will say that he ought to reject party considerations and act for the country. The result of such an attempt would be a quarrel with his own side without gaining the other. The public could never get at the facts. Party misrepresentation, which is now half favorable, would then be wholly adverse to him. The motive power of our government is secret party bullying and intrigue, and the President can live only by getting the strongest portion of it on his side.

Suppose that a serious disturbance were taking place in Edinburgh at election time, and that the Ministry were to send down troops to keep the peace, would there be the slightest fear that they would be employed to return a party candidate? Would the officer in charge be left with such indefinite instructions as to admit of a gross violation of constitutional right? And would not the exceeding his instructions be followed by immediate disgrace and punishment? And why is there no doubt on these points? Because the Ministry know well that within twenty-four hours the facts would be brought to light, and a storm descend upon their heads from the Opposition and the press which, if it did not drive them from office, would seriously diminish their influence and power with Parliament and the country. I ask your readers to observe whether present and future facts do not point to the necessity of independent and responsible executive power; and this can only be obtained through the admission of the Cabinet officers to a share in the debates in Congress. It is futile to object to this on the score of difficulties of detail. The *principle* must be put in operation if we are not to come to utter chaos. It is of no use to ask for a Constitutional amendment, because that would have to pass through twenty-seven legislatures, by their very nature just as hostile as Congress. The experiment could be tried this winter were not Congress, almost to a man, bitterly opposed to it. The majority do not wish to give up an atom of their power, and the minority, hoping to become a majority, do not care to be so unless they can wield the same power in their turn.

Mr. Randall warns Congress against the encroachments of the Executive, a warning which, by the way, would never have been uttered if the President had belonged to his party. But who is there to utter any warning against the encroachments of Congress? You say rightly that the English have once and the French twice turned out their legislatures by force. It was because those bodies tried to do what our legislatures are doing—govern without any executive. The country has to learn that its interest, as well as that of the Executive, is diametrically opposed to that of members of Congress, and that it must be made a test question in the election of the latter, that they will vote for a restoration of the balance.

G. B.

BOSTON, December 8, 1876.

THE CONSTRUCTION OF THEATRES.

TO THE EDITOR OF THE NATION:

SIR: Permit me as an engineer to call attention through your columns to certain features in the construction of our theatres which the recent fire in Brooklyn and the great loss of life attending it now make of general interest.

There are generally legal requirements governing the arrangement of doors and the means of exit, sufficiently lax in themselves and too often even more laxly enforced. The Brooklyn theatre, if in anywise an exception to the general rule, was probably better than the average, and the tragedy which was enacted there was simply what we must expect to see repeated should a fire get beyond control during the performance in any well-filled theatre. The trouble is not so much that the passages and stairways are too small to allow the audience to pass out in the little time which is at their command, though this may usually be the fact, as it is that any promiscuous crowd of people is certain to become scared at the sight of any conspicuous danger, and a frightened multitude can never be moved rapidly: a disciplined army corps could be marched into a theatre, seated, and marched out again in half the time which a frightened crowd of equal numbers would occupy merely in coming out. Since, however, our theatres

and for the amusement of the public at large, it is with a promiscuous crowd that they have to deal; such a crowd can get on very well so long as it has a smooth path before it, but as soon as it comes to an obstacle confusion and delay begin, and one of the most serious obstacles it can meet is a flight of stairs—even two or three steps in a broad passageway may cause serious delay. But theatres are built with a view to give large audiences an unimpeded view of the performance, much talent having been successfully exercised for this end, and this requires that a majority of the audience should be seated in galleries which can only be reached by stairways. Stairways, though the worst obstacle that can be put in the way of a crowd, are a necessary part of a theatre, and a theatre is safe only when an undisciplined crowd, in the confusion of a scare, has time to pass out in spite of these obstacles before the fire can reach them. With perhaps a single exception, I doubt whether there is a theatre in New York which would be found safe if tried by this test.

A theatre as commonly constructed is a large rectangular room of considerable height surrounded by brick walls; in the smaller cities it is often the upper story of a building, the ground-floor of which is occupied by stores and the second floor by offices. In this rectangular room a sloping wooden floor is built for the stage, a stepped wooden floor forms the parquette, wooden galleries make the higher tiers, wooden partitions form the proscenium boxes, and a wooden arch, whose massive breadth is but a mask to the flimsy joiner-work of which it is made, completes the wooden division between the auditorium and the stage. Everything is ornamental and false; sometimes the partitions and ceilings are not even plastered, but simply covered with canvas and paint; the appearance of the rectangular wall is entirely concealed, and the eye sees only the graceful curves of the galleries and the columns supporting the arch of the stage. It looks well and substantial, but everything visible is of wood. The plain rectangular room is thus divided into auditorium and stage—the former to be filled with a dense audience, the latter to be occupied by a few performers and the various mechanisms by which stage-effects are produced; the former, in spite of its inflammable construction, a place where it is almost impossible for a fire to originate, the latter filled with canvas scenery, light wooden frames, and movable lights which require constant watchfulness on the part of attendants and give rapid headway to a fire which has once passed control. The exigencies of the play demand the use of this tinder-like machinery; scenes painted on wire netting and worked on iron frames would be too expensive and cumbersome. Like the staircases of the entrance, the combustible stage appliances must be accepted as among the necessary evils of a theatre.

The one means of securing safety is to separate the stage from the auditorium, not by an inflammable piece of joiner-work, but by a substantial fire-wall, which shall at least confine the fire to the stage for several times as long as is ordinarily required to empty the theatre, and this is perfectly simple and practicable, and would not be unreasonably expensive. A substantial brick wall, starting from the foundation and extending several feet above the roof, according to the usual requirements of a fire-wall, provided with a curtain of stout wire netting which flames will not penetrate, and with a second curtain of heavy woollen stuff to serve as a smoke-screen, is all that would be needed; the brick wall should be placed between the proscenium boxes and the stage; there should be no air-space between it and the boards of the stage floor, and at the sides and top of the stage opening it should project at least a foot beyond any wood-work; it could be carried across the top of the stage-opening by a brick arch, or on an iron girder protected by a non-conducting covering, as might best suit the particular case; whatever small openings might be needed should be provided with self-closing iron doors; the fire-curtain should be closely fitted to the stage side of the wall, and the smoke-screen should be on the side next to the audience, and both should be so hung as to be raised and lowered by ropes and to fall of their own accord if the ropes were burnt. Even such a fire-wall might not confine a fire to the stage—I doubt very much whether it would do so permanently in a majority of cases; but it could always be relied upon to keep back the fire for a considerable length of time, with the aid of a few simple appliances, till the walls of the building became weakened, and, by imposing a visible screen between the audience and danger, it would do much to relieve them of their fright.

There is nothing novel in the use of a fire screen; to say nothing of other instances, the Boston Theatre was provided with a wire curtain when first opened more than twenty years ago, and which was then lowered after every performance before the last of the audience had left the building. It is a simple arrangement and it can be introduced without unreasonable expense in any theatre already built, except where there is a floor below the theatre which could not be divided by a wall. Fire extinguishers and wide

entrances are very good, but they alone cannot always be relied upon. The Grand Opera House in this city is an uncommonly well-arranged theatre; it has roomy entrances, and, besides the usual fire-extinguishers, is provided with a complete set of hose and sprinklers connected with a powerful steam-pump in a distant part of the adjoining office building, but the interior structure is the wooden joiner-work commonly used, and it is very doubtful whether a full audience could escape if a fire got beyond control on the stage. It is the custom of engineers to provide for emergencies and imperfections by using what they call a factor of safety; in proportioning a structure each part is made of such size that the strain required to fracture it shall be five times as great as any strain it will ever be called upon to bear. The same principle should be applied to the construction of theatres: the time which it will take for a fire to spread from the stage to the auditorium should be five times as long as it takes for an audience to go out.

GEO. S. MORISON.

New York, Dec. 9, 1873.

Notes.

HURD & HOUGHTON publish this month an Index to the *Atlantic Monthly* (thirty-eight volumes). It will be divided into General Articles, Editorial Articles, and Authors. Heretofore anonymous authorship will be revealed.—Porter & Coates promise a new edition of Harriet Martineau's 'History of England from 1800 to 1854'—'Six Weeks in Norway,' by Edward L. Anderson, is in the press of Robert Clarke & Co.—Little, Brown & Co. will be the American publishers of Dr. William Smith's 'Dictionary of Christian Biography, Literature, Sects, and Doctrines,' from the time of the Apostles to the age of Charlemagne.—The centenary of the battle of Bennington falls on August 16, 1877, and, as that year is also the hundredth anniversary of Vermont's existence as an independent State, there is a prospect of a great celebration at Bennington on the date mentioned. A Battle-Monument Association has been incorporated, the States of New Hampshire and Massachusetts (whose soldiers fought under Stark) have been invited to join Vermont in erecting the monument, and Vermont has appropriated \$15,000 towards it. Already the pedestal of a monument marking the site of the famous Catamount Tavern has been erected, and now only awaits the bronze catamount which is being designed by Mr. T. H. Bartlett. The Bennington Historical Society intends to make a beginning next year of an adequate history of the town.—The annual address before the Vermont Historical Society, consisting of a history of the (Confederate) St. Alban's Raid, October 12, 1864, by the Hon. Edward A. Sowles, was delivered October 17. It has since been printed in pamphlet form, by order of the Legislature.—The *Academy* for November 25 prints a highly interesting communication from General L. P. di Cesnola, who, after stating that he is now engaged upon an extensive work on the subject, reviews the whole course of his explorations in Cyprus. He says, in conclusion, that with his excavations at Kurium his labors in the island have terminated.—A circular in English, French, and German has been issued by a committee of the American Association for the Advancement of Science, inviting geologists throughout the world to co-operate in holding an International Congress of Geologists at Paris during the Exposition of 1878. As an aid to its labors, the geological department of the Exposition will be specially reinforced with collections of rocks, of palaeontological remains, and of maps, sections, and models. Those interested may address Prof. T. H. Huxley, London; Dr. Otto Torell, Stockholm; Dr. E. H. von Buch, Berlin; H. van der Horst, Holland; or Dr. T. Sterry Hunt, Boston.

—Hurd & Houghton have just issued the first fasciculus of 'The Wild Flowers of America, Illustrations by Isaac Sprague,' somewhat long deferred but yet well timed, for it will be prized by the givers and receivers of holiday gifts, as well as by botanists and amateurs. Mr. Sprague is one of the most truthful delineators of flowers of any country, and chromo-lithography has in the present instance well represented his work. This specimen number is the first publication in this country, so far as we know, which gives an idea of what flower-painting ought to be. Two of the plates, representing our wild columbine and cranesbill, are anticipations of spring; the other two, the wavy-leaved aster and a pair of geraniums, are reminiscences of autumn. The letter-press is by Prof. Goodale of Harvard University, and consists of more interesting and curious matter than is usual in publications of this sort.

—Prof. E. S. Frisvold, of the Chemical Laboratory, Pennsylvania

College, at Gettysburg, writes us in regard to a bogus degree agency in Boston:

"In the *Baltimore American* of Nov. 22 and 23 appeared the following advertisement, under the head of Personals:

DEWEY, IAN, DENTISTS & Co., who wish Genuine Chartered University Degrees, can address, enclosing 10 cents, J. R. VUILLE, Boston, Mass.

In response to a letter of enquiry under an assumed name, came the following communication, with the compliments of J. R. Vuille (the advertisement is in the name of J. R. Vuille):

"Upon receipt of \$50 in gold, a medical thesis, evidence of study or practice, and certificates of moral character, I will procure for you the degree of M.D. that will stand the laws of any State. For \$70 in gold I will send with the diploma a registration certificate, matriculation ticket, and a full set of class tickets. The degree of Ph.D. will be furnished at the same rates."

My enquiry as to the names of the universities is not answered. We can no doubt imagine their character."

—The censure with which the *Nation* has been visited in some quarters for pointing out the Constitutional right of an Elector to cast his vote for the best interest of the country, has been unanimous in one respect. Either by implication or direct assertion we have been told that our suggestion was shocking to the moral sense not only of Americans but of mankind; that any honorable man, whether native or foreigner, must, with the facts before him, stand aghast at what we had done. By a curious coincidence, at the very time our article was in preparation, an English barrister, of eminent talent and high character, was penning us a letter from which we make the following extract. Our correspondent has visited this country, and has had unusual opportunities for keeping up his acquaintance with our politics. Our article entitled "A Failure to Elect, or a Disputed Election" appeared November 30. On the 24th he was writing from London:

"We are watching American affairs with a good deal of interest and, for my own part, I may add, with a good deal of anxiety. As far as I could judge of the affairs of another country, I should have considerably preferred the election of Hayes. But now that the contest has taken its present form I presume that the election of Tilden is the fairer, and therefore the better—or at any rate the least bad of the possible results. I sometimes wonder that, under the very peculiar circumstances, no one raises the question whether the Electors might not with advantage exercise the choice which I conceive on the original theory of the Constitution they were meant to exert, either by deserting their party pledges and thus giving a decisive majority to one candidate or the other, or else by selecting some third person. It is some time since I looked into the Constitution, but, unless I am mistaken, the chosen electors have in theory the right of election."

—The *Galaxy* for December does not contain any very remarkable contributions. Dr. T. M. Coan, from his article on "People and Pictures at the Fair," seems to have found more to observe and enjoy in the crowd at Philadelphia than most people did. The exclusively American character of the assemblage, the marked absence of any outlandish and picturesque dresses or effects of color, and the prevalence of the slightly shabby broad-cloth coat, the "duster," and only too familiar national or naturalized types of face, tended, to our mind, to give the crowd very much the look of any other ordinary American crowd, while the extreme slightness of the military display, when there was any at all, failed to give relief. Something of this sort Dr. Coan admits, but afterwards seems to feel that patriotism requires him to forget. Not having his Roman sense of duty, we confess that the external appearance of the crowd at Philadelphia was not ravishing to the eye. Statistics, we believe, show that the American type, physically considered, stands the test of comparison with existing European types, but a vigorous, natural man does not seem to produce when multiplied a picturesque-looking crowd, except at the cost of some labor and thought. For civilized man, as for the savage, the secret of success in the art of making himself pleasing to the eye lies simply and solely in clothes. A devotee of the great principles laid down by Herr Teufelsdröckh in "Sartor Resartus" might have found much food for reflection at Philadelphia. Monarchical and aristocratic institutions, much as may justly be said against them, do undoubtedly tend to a development of picturesqueness in clothes, and though this at first sight may only seem to concern the wearers of them, the great and steady development of international exhibitions now has the effect of making the clothes and art of wearing them of any nation a matter of direct personal interest to the people of all other nations; and we have little doubt that what the modern utilitarian calls "altruism," leading on the one side to unselfishness and on the other to a disposition to minute enquiry into other people's affairs, will eventually lead to the recognition among the nations holding such fairs of an international right, at least of protest, on the ground of unpicturesqueness, against certain kinds of clothes in any friendly country. This would of course be an interference with municipal law, and on that ground objectionable. It would also be objectionable to us, because the

exercise of the right would bear most hard on nations that had thrown off the clothes and traditions of the past. But these objections are overborne by weighty advantages, as those who recollect the slightly tiresome aspect of the crowd at Philadelphia will admit. The machines, the buildings, the grounds, the goods—every prospect pleased; man alone—and man only through his clothes—was vile.

—The locust invasion of 1874 is the subject of an able paper in the *Canadian Naturalist* by Mr. G. M. Dawson, some time geologist of the British Contingent of the United States Northern Boundary Survey, during the progress of which his investigations were made. During the year mentioned, he states, none was hatched from the egg in Manitoba east of the 103rd meridian, but some were in Dakota as far east as 99° W. The flight occurred in 1874 during the latter part of June and through July, with a general east and south direction. The extraordinary pertinacity with which these insects adhere to a determined direction is noted and commented upon, as well as the instinct or sagacity they display in taking advantage of favoring winds. In discussing the nature of their food, Mr. Dawson notes their likes and dislikes, and the visible effects upon the botany of the region in question, enquiring, for example, whether the great relative abundance of *Leguminosae* may not be due to the dislike of the locusts for plants of this order.

—We had intended in our last issue to notice the death and impressive funeral ceremonies of Friedrich Wilhelm Ritschl, of which the news had just been received. His death is called in Germany "a national calamity." But it is more than that. It is a European calamity; and this side of the water his death will be mourned by hosts who have admired him as the founder of a distinctive school of philology and as a pioneer in a new and fruitful line of research. Ritschl was born the 26th of April, 1806, at Grossvargula, a small town in Thuringia; studied philology at Leipzig under Gottfried Hermann, and at Halle under Reissig; took the degree of doctor at Halle in 1829, and was appointed extraordinary professor at that university. In 1832 he was called to Breslau, and from there, in 1839, to Bonn. After a brilliant career at Bonn, he was again called to Leipzig, where he labored almost to the day of his death. Through the summer vacation he was incessantly occupied in literary work; and when the winter term began, growing gradually feebler and feebler, he was unable to go up the stairs to his lecture-room. But with a touching zeal and fidelity to duty, as long as his health allowed, he was carried up the stairs, until the end of October, when he was reluctantly compelled to give up lecturing for ever. The most casual observer must have noticed the great stride taken of late in classical studies, and particularly in the study of Latin. If an entirely fresh life has been breathed into these studies, if they have been rid of the mass of mediæval prejudice and stuff with which they were overlaid, if texts have been reconstructed, if everything—orthography, grammar, and pronunciation—has been revolutionized (and one of the last subjects which occupied his mind was the subject of Latin pronunciation), all this is due to the mighty impulse given by Friedrich Ritschl. An imposing array of works beginning with his "Schedæ Criticæ," published in 1829, including his "Plautus," an inheritance from two generations of scholars, his "Corpus Inscriptionum," and manifold academic publications testify to his ceaseless activity for the space of seven-and-forty years. But great as Ritschl was himself as a philologist, it will perhaps be found, when the time comes to pronounce an impartial verdict on his life and labor, that he was greater still as the cause of philology in others. No German has held—certainly in this century—so commanding a position as the head of a great school. Indeed, no man has for centuries carried out more perfectly the old conception of master and disciples all working together for a common end.

—Like other great inventions the "Pupazzi" of M. Lemercier de Neuville are rather a new combination of old material than a thing entirely new; they are a cross between the ordinary puppet-show and the caricatures of the comic journal. In 1861, M. de Neuville was an unprinted journalist, an unread novelist, an unacted dramatist. Failing in the old professions he invented a new one, which, like many another great enterprise, rose from humble beginnings, and with no thought of its future grandeur. M. de Neuville began by cutting out caricatures to amuse a sick child; then, to enliven an after-dinner party at the house of an artist friend, he rigged a Punch-and-Judy frame on which his little figures, in the fashion and seeming of the celebrities of the day, recited parodies and gave imitations. Their success opened other houses to them. Then, by the advice of M. Gustave Doré, he abandoned profile silhouettes and modelled caricature heads in clay. He also elaborated the mechanism of his puppets and taught them to dance the waltz, the polka, and even the cancan. He wrote plays for them wealthy

in Aristophanic allusions—full of actuality, as the French call it. A selection from this repertory he has just printed in a handsome octavo volume of over four hundred pages, adorned with the portrait of the author and nineteen etchings—one on the outside cover by M. Ad. Lalauze, and eighteen vignette headings to the plays. His publisher is Schüring of Lyons, to whom we already owe many curious and interesting works. Punch and Judy have been immortalized by the needle of Cruikshank, and in a *Puppenspiel* the 'Faust' of Goethe had its inception. Neither of them need be ashamed of their successor. Pasquin *in propria persona* presides over his little stage, on which stand, elbow to elbow and face to face, M. Thiers and M. Sarrasin, Mme. Benoison and M. Prudhomme, Damas fils and Mme. Lachaul. The dramatist's favorite framework is a trial-at-law, which allows the putting on the stand and the cross-questioning of the politician or playwright of the hour who may chance to be the most prominent in the eyes of the public. Perhaps the best thing in the volume is the deposition of M. Gustave Courbet. But through these little plays there is a steady fire of puns, parodies, pungenies, and "local hits," as we should call them. Although restrained by taste and sense, M. de Neuville is a true *frondeur*, and few escape his sling.

GRAY'S DARWINIANA.*

THESE are essays that deserve a careful reading. Though addressed to the popular ear, they are not attempts to amuse the occasional reader with ready-made science made up by the quantity by dealers in other men's thoughts. Most of them are accounts or criticisms of investigations in science in which their author bore no unobtrusive part, treating their subject in a philosophical and unmechanical manner, and all of them are connected with that enticing topic, the Darwinian theory. The high position of their author in the front rank of the botanists of our day justly claims the attention that his philosophical position might not otherwise attract—a position not uncommon yet when closely considered not uninteresting. He is, and has been since the first, "scientifically and in his own fashion a Darwinian, philosophically a convinced theist, and religiously an acceptor of the creed commonly called the Nicene," holding thus views sometimes thought incompatible.

The first of these essays was published in 1830, just after the appearance of Darwin's 'Origin of Species by means of Natural Selection'; and in it Prof. Gray extended to the newcomer a frank though critical welcome. The religious bearing of the new hypothesis interested him especially, and in the same year he wrote a discussion of the relation of evolution to design, and another on the harmony of natural selection and natural theology—points to which he several times later returned. Shorter essays follow on the distribution and succession of the oak genus, the gigantic sequoia of California, and those singular plants which (one is almost tempted to say who) have the power of voluntary motion, the climbing and insect-eating plants; on Charles Darwin, and the physical and philosophical characteristics of his theory; and the volume closes with an essay, never before published, on the broader teleological aspects of evolution. Some half-dozen of the shorter of these articles were published in these columns within the last two or three years, as our readers will remember.

It is with a curious feeling of antiquity that one reads the opening words of this volume: "This book [of Darwin's] is already attracting much attention. Two American editions are announced," etc., and notes the intellectual pleasure with which the author met the then novel arguments of that great work, the caution with which he avoided committing the journal for which he was writing to the extraordinary theory announced, and the anxiety with which he looked to Pictet and others for some modifying theory to control in some measure the too rigorous and sweeping logic of natural selection. This hope has never been gratified; and yet there is little that Prof. Gray will wish to alter to-day, although in the sixteen years that have elapsed since that essay was written a great change has taken place in the world of science, which is quietly but irresistibly carrying the outer world with it. No theory met with greater opposition than that of natural selection. Men of science drew back from it with cold dislike, the clergy attacked it with violence, and society pelted it with ridicule. Yet to-day it stands in a position only second in strength to that of gravitation. And this success has not been barren. The whole theory of evolution, vastly extended, has been converted from a vague metaphysical fancy to a powerful philosophical system, and a new religious creed is dimly shaping itself. Nor is the influence wholly speculative. In the field of ethics, unfertile for so many centuries, new methods of culture are giving

new results. Even art feels the influence, and the novelist and the poet are singing the triumph of the naturalist. Yet the dust and smoke of the conflict still hang heavily over the field of battle, and the limits of the conquest cannot everywhere be traced. At one or two points a half-recognized contest still continues; at others the field is quite clear. We can see now that the existence of the Deity was never in any way involved, and that the fundamental truths of the Spirit, whether of personal or Biblical revelation, were not in question. If the Mosaic accounts of creation are now treated rather as religious poetry than as rigorous fact, it is due to geological records that were established before Mr. Darwin sought the ear of the public. The most that can generally be said is that the growth of scientific thought has quietly altered our mental attitude, and modified some of our intellectual conceptions.

In three points, however, Darwin's theory did conflict with the orthodox creed—the belief that this world of ours is governed by special providence; the proof of the intelligence of the Creator from the evidence of design in nature; and the doctrine of sin that lies at the base of the creed. But it would be unjust to place the responsibility for the change which opinion has undergone, and is undergoing, in respect to miraculous interposition in nature wholly upon the theory of evolution by struggle for existence. In extending the domain of law to the origin of species, Mr. Darwin only put the finishing touch to a work which had long been building. The reader may search far for an argument by a scientist against the belief in divine interference with natural laws. Its moral value seemed so great that few relinquished it without dread; and it has faded, as the belief in witchcraft faded, not before any special argument or fact, but under the irresistible power of the culture of the age, before a movement that began with the revival of learning and has not yet reached its climax. The belief in never-changing law, held as Prof. Gray holds it, with the conviction that God does everything, each smallest atom obeying his will, and indeed existing only by "the immediate, orderly, and constant, however diversified, action of the intelligent, efficient cause," is certainly a religious—nay, more, an inspiring one. But Prof. Gray is no doubt right when he says that this is not the popular view, and the abandonment of special creation is only too generally a remission of Divine action to the remotest past. For good or for ill, the belief in special providence seems doomed, and we doubt whether many thinking men to-day would really expect any difference to arise from the use of prayer in hospitals, as suggested by Tyndall.

As to the second point, the relation of evolution to the design argument, we think Prof. Gray exaggerates its importance in making it a test question. Paley's argument was an ingenious and powerful one, but the conclusion that he reached (the intelligence and personality of the Creator) does not depend on it alone, and may well stand after the induction from nature is abandoned. In discussing this argument, we do not think the author appears to his usual advantage. His mind is candid and direct, he has thought at length upon the subject, and, indeed, his whole book turns upon it; yet, strange to say, he does not seem familiar with Paley's argument or the way in which it has been affected by the evolution theory. The point, however, although purely one of abstract reasoning, is not so abstruse as one might fancy from the usual treatment it receives in this country. Prof. Gray handles it most at length in his second essay, which seems a reproduction of a real correspondence between himself and a friend, "D. T." The argument of "D. T." was to the effect that Darwin had destroyed the strength of the design argument by showing that the complicated harmony of organic life arose of necessity from the operation of a very simple quality, the power of giving birth to descendants resembling almost but not quite exactly the parents, and the necessarily limited means of subsistence on our globe; and hence that as far as the proof from nature went the great first cause might not be intelligent, because that, intelligent or unintelligent, the same results would have followed any creation of organic life or probably any creation of matter. Prof. Gray does not fully apprehend the strength of this position. It is not a sufficient answer to say that the variation of species by law instead of miracle does not disprove design, or that complicated results produced by simple means may have been planned as fully as if caused by direct volition. This is true, but it is a mere negation. The positive force of the design argument fails because the complicated ends may not have been foreseen, and the only intelligence logically required is the very small amount involved in the arrangement of the simple means—that is, in giving to matter a few properties (possibly reducible to the mere power of direct and vibratory motion), and to organized matter the power of reproduction. In short, the argument turned on the complexity, and that is now otherwise accounted for.

If the reader will turn to that often-referred to but seldom-read volume,

* Darwiniana: Essays and Reviews pertaining to Darwinism. By Asa Gray, Professor of Natural History (Botany) in Harvard University. New York: D. Appleton & Co. 1876. Pp. 296.

Paley's 'Natural Theology,' he will see that Paley, who perfectly understood the scope of his argument, based it entirely upon certain very elaborate cases of harmonious adjustment, and never pretended that any inference of design could be drawn from simple arrangements. "A wen, a wart, a mole, a pimple, . . . a clod, a pebble, a liquid drop," might have been produced unintentionally, he admits, but an eye or a watch never, because they answer "a valuable purpose by a complicated mechanism," and there is no other way of accounting for the combination of such a number of nicely-adjusted parts than the supposition that the adaptation was the cause of their selection, and the thing was designed. We must remember that mere order does not necessarily show design; for that an arrangement is required so complex that it could not have occurred otherwise. Had Paley found rocking in the surf of the sea shore a hollow log partly filled with stones and sand, there would have been an order apparent to him in the arrangement of the contents. The large stones would have been at the bottom, the smaller ones above, with the sand filling the interstices, and any chips or lighter matter on the top; but he would not have attempted to draw from that order any inference of design, because that arrangement might equally well have come about without any intelligent act. That eminent thinker expressly concedes that he would be fairly answered if it could be shown that the organizations from which he drew his inference were "only so many out of the possible varieties and combinations of being which the lapse of infinite ages has brought into existence; that the present world is the relic of that variety, millions of other bodily forms and other species having perished, being, by the defect of their constitution, incapable of preservation or of continuance by generation." This very remarkable conjecture he rejects, on the ground that there was no foundation for it in fact, a position correct enough in the then state of knowledge. But our readers do not require to be told that this conjecture, which Paley suggested only to demolish, is just what Mr. Darwin has endeavored to establish by his theory of natural selection. And we think that the student has a right to expect that when the design argument is examined, either by scientifically-inclined theologians or naturalists straying into philosophy, the main outlines of the subject shall not be obscured.

Children's Holiday Books.—Mr. Edward Abbott's capacity for interesting and instructing his contemporaries is well known. His 'Long Look House' (Noyes, Snow & Co.) is the first of a juvenile series which he dedicates to his father, the veteran author of the Rollo books. In his conscientious and attractive preface he tells us that he has tried to catch the spirit of those famous stories, and, further, that he addresses the reasoning powers rather than the emotions, and excludes the "sensational element." The present volume, addressed to boys from eight to twelve, begins at the very beginning of the House—its planning—and reaches the final moving into it of the family; not an inch of the process is slurred over. Materials and staking out fill each a chapter; next we have plumbing, heating apparatus, etc. The subject in each case, except lighting by gas and water-works, is elucidated in conversations with (or at) Max, aged six, who is the most attentive child we ever met. His father often talks for pages without interruption on the boy's part, and, in fact, the dramatic part of the story goes for nothing. Thoughtful boys of enquiring minds ought to enjoy the details of house-building, which are clearly and simply described. The children would probably be tiresome to them, though Max's questions often make the father's replies plainer. The elder Abbott did better without taking so much trouble as does his imitator, who cannot even omit describing "specifications" when their turn comes.

"H. H.'s" verses in her 'Bits of Talk for Young Folks' (Roberts Bros.) sustain her reputation as a poet. Of the prose portions we may say that "The Christmas-Tree for Cats" is a very funny story of what could scarcely happen in reality. "My Aunt's Cow" is entirely thrown in the shade by James Greenleaf's biography of her. "The Expression of Rooms" is advice to young girls about interior decoration with moderate resources. It resembles much more the teaching of Mrs. Stowe than that (say) of Mr. Clarence Cook. The dicta that the safest color for a wall is cream color, and that one must avoid bright colors in a carpet, hardly proceed from a specialist. For the rest we have only praise for 'Bits of Talk.'

The wholly ephemeral character of the bulk of our juvenile literature so often calls for comment, that we welcome the reappearance of a meritorious volume, 'The Little People of God, and what the Poets have Said of Them' (Loe & Shepard). Mrs. Austin's selections have stood the test of five years, and they are in the main excellent. Parents will take the most pleasure and derive the most profit and consolation from them. Here and there

only, a piece may be read aloud to young listeners. A few should on no account be read to them.

In 'Johnnykin and the Goblins' (Macmillan) Mr. Charles G. Leland, who is a successful worker in many branches of literature, has tried his hand at a child's book, and with very good results. It is of the class of the "Alice" books. Johnnykin has a dream and sees alive all the various goblins of his acquaintance, from the maiden Marjolaine carved upon a mediæval tomb, and the gargoyles on the old church, to the pictures he himself had scribbled upon his slate in school-time. Perhaps the most effective passage is where these brigands, ghosts, and school-masters haunt and pester him until he rids himself of them by threatening to wipe them out with a sponge. This book has not the wonderful spontaneity and charm of Mr. Carroll's stories; the machinery sometimes works awkwardly, the poetry is rather labored; but the story is well conceived and well told and full of excellent points, and the illustrations are very good. The scene is laid in England—a land, no doubt, better adapted to goblin life than our new and prosaic civilization.

'Science in Sport made Philosophy in Earnest' (Geo. Routledge & Sons) is "an attempt to illustrate some elementary principles of physical knowledge by means of toys and pastimes." Fifty years ago Dr. J. A. Paris wrote a book bearing the same title, except that the words science and philosophy exchange places. In rewriting this book its scientific skeleton has been readjusted to the latest discoveries. But how has the soft tissue fared—the dialogues and explanations upon which depends its adaptability to those who play with toys? The following extract will show. It is in explanation of a game of marbles:

"When one marble impinges on another, their centres continue to approach each other after actual contact between the marbles until an instant arrives when they have a common velocity. After this, their elasticity, in restoring the original shapes, drives their centres apart again; and in doing so of course generates momenta equal in opposite directions. The backwards momentum thus imparted diminishes, destroys, or reverses the motion of the striking marble, according to the value of a certain relation amongst the masses and actual elasticities of the bodies."

This statement is exhaustively perfect. It could not be improved upon (barring the phrase "of course") for minds trained to apprehend exactly the abstract definitions involved; but this is out of the question for children. And the sentences are everywhere too long and compounded.

'In the Sky-Garden' (Lockwood, Brooks & Co.), by Lizzie W. Champney, is an ingenious and felicitous essay to teach to children a few of the most amusing facts about stars. It does not fall into the error so common in books of juvenile science of appending philosophical explanations, of which 'Science in Sport,' the book last mentioned, is an extreme specimen. It is adapted to plastic memories; but little truth is told, and that little is dressed in cheerful, wholesome stories. The prefatory dream is in the best style of Charles Kingsley's 'Water-Babies,' perhaps a little more merry and a little less keen. Thus:

"These funny bugs, as you call them, are scientific men, whose eyes have become so accustomed to their work that they shoot out telescopes and microscopes of their own [literally illustrated in a cut] and come up here in their dreams to carry on their observations. That very solemn beetle watching the comet is your father. Some of the most remarkable astronomical discoveries have been made in this way. You see they get a great deal nearer to the stars here, and, by looking intently, what they see becomes photographed upon their eyes, so that when they next look into a telescope during their waking hours they see it again; and as they have forgotten all about their dream, they fancy they see it for the first time."

There are a dozen stories fixing the names in the zodiac, fresh and modern, with no flavor of mythology. Thus: Aries is Golden Fleece (a girl with bright locks); Taurus, a bull-fight, etc. A ride in the sun's chariot is made to teach that there are two sides to a quarrel—a lesson in "Parallax." The illustrations, by J. W. Champney, are clever and original, the full-page ones having a sky-blue background.

Among designers, however, the children's English friend, Walter Crane, must be allowed the palm. His brush and pencil have never been more charmingly employed than in the 'Baby's Opera' (Routledge), a choice assortment of nursery rhymes set to music "of the earliest masters," the tunes in many instances being to our mind much superior to those composed for the handsome 'Nursery Rhymes' published by the same firm. Where the song has not a full-page illustration, an ornamental border tells the story in the manner peculiar to the gifted artist. The cover is not the least captivating part of this little gem.

Dottings Round the Circle. By Benjamin Robbins Curtis. (Boston: J. R. Osgood & Co. 1876. Pp. 329.)—This book is a diary of a college gradu-

at its journey around the world from Boston to Boston, *via* the Pacific Railroad, Pacific Ocean, Indian Ocean, Suez, European railways, and a Cunard steamship. Although most of the travel is by sea, yet but little is said of wind or sail, and the bulk of the space is devoted to Japan, China, and India. There are a few side excursions, such as visits to the Yosemite and the Pyramids. Many other places are mentioned at the heads of short chapters, but the equal appearance of these in the table of contents is calculated to mislead, as the only countries really described are China and Japan, and the latter furnishes the most interesting portion of the book. Of

Europe, the only facts which Mr. Curtis everywhere tells are the hours of starting and arriving of trains. In general he deserves praise for avoiding opinions and confining himself to the narration of facts. His selection between the facts worth telling and those of less interest is, for the most part, very judicious. It would be easy to point out errors of haste and errors of inertia, if we may be allowed the expression, but it is pleasanter to recognize an evident intention to be accurate. There is neither map nor index; but there are twelve excellent heliotypes, nearly all of Oriental subjects.

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